

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION
CIVIL CASE NO. 2:12-cv-00090-MR-DLH**

IVA J. SMITH,

Plaintiff,

vs.

**CAROLYN W. COLVIN, Acting
Commissioner of Social Security,**

Defendant.

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ORDER

THIS MATTER is before the Court on the Plaintiff's Petition for Attorney Fees under the Equal Access to Justice Act 28 U.S.C. § 2412. [Doc. 10]. The Commissioner does not oppose the Plaintiff's Motion. [Doc. 11].

The Plaintiff seeks an award in the amount of \$1,054.38 in attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d). [Doc. 10]. As noted above, the Commissioner does not contest the Plaintiff's request for fees. In light of the Court's prior remand of this matter, and in the absence of any contention by the Commissioner that his position was substantially justified or that special circumstances exist that would render an award of attorney's fees unjust, the Court concludes that

the Plaintiff is entitled to an award of attorney's fees under the EAJA. The Court further concludes that, in light of the Commissioner's lack of opposition to the Plaintiff's request, the Plaintiff is entitled to reimbursement from the Treasury Judgment Fund of the \$350.00 in costs incurred as a result of filing this action.

IT IS, THEREFORE, ORDERED that the Plaintiff's Petition for Attorney Fees under the Equal Access to Justice Act 28 U.S.C. § 2412 [Doc. 10] is hereby **GRANTED**, and the Plaintiff is hereby awarded attorney's fees in the amount of One Thousand and Fifty Four Dollars and Thirty-Eight Cents (\$1,054.38), which sum is in full satisfaction of any and all claims by the Plaintiff in this case pursuant to 28 U.S.C. § 2412(d).

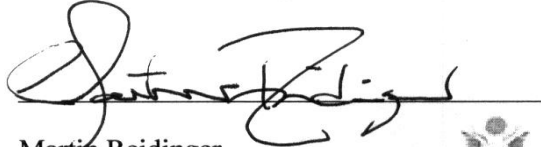
IT IS FURTHER ORDERED that Three Hundred and Fifty Dollars (\$350.00) in costs shall be reimbursed to the Plaintiff from the Treasury Judgment Fund upon certification thereof by the Office of the United States Attorney to the Department of Treasury.

IT IS FURTHER ORDERED that in the event that past-due benefits are awarded on remand, the Plaintiff shall have thirty (30) days after being served with notice of the past-due benefits award to file for an award of fees pursuant to the Social Security Act, 42 U.S.C. § 406(b).

IT IS FURTHER ORDERED that no additional Petition pursuant to 28 U.S.C. § 2412(d) may be filed.

IT IS SO ORDERED.

Signed: May 30, 2013


Martin Reidinger
United States District Judge

